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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,688	03/11/2004	James M. Alkove	MSI-2008US	6286
22801 7590 04/27/2009 LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201				
EXAMINER				
GELAGAY, SHEWAYE				
ART UNIT		PAPER NUMBER		
2437				
MAIL DATE		DELIVERY MODE		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/798,688

**Applicant(s)**

ALKOVE ET AL.

**Examiner**

SHEWAYE GELAGAY

**Art Unit**

2437

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-7 and 43-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-7 and 43-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/13/09 has been entered.
2. Claims 1-2, 5-7, 43-47 have been amended.
3. Claims 4, 8-9 are cancelled.
4. Claims 10-42 are withdrawn.
5. New claims 48-51 have been added.
6. Claims 1-3, 5-7 and 43-51 are pending.

### ***Response to Arguments***

7. Applicant's arguments filed February 13, 2009 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Objections***

8. Claim 50 is objected to because of the following informalities: Claim 50 is a substantial duplicate of claim 48. Applicant might have intended claim 50 to depend on claim 43 rather than claim 1. Appropriate correction is required.

9. Claim 51 is objected to because of the following informalities: Claim 51 is a substantial duplicate of claim 49. Applicant might have intended claim 51 to depend on claim 43 rather than claim 1. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1, 43 and 48-50 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 43 and 48-50 recite "based at least in part on the status request," the term "at least in part" is indefinite because it does not set forth all the conditions for ascertaining whether the one or more content protection technologies are supported by the hardware.

3. Claims 2-3, 5-7 and 42-47 are also rejected for being dependent on the rejected claims.

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, 5-6 and 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Hardware Platform for Next-Generation Secure Computing Base" December 2001 (hereinafter NGSCB) in view of in view of Risan et al. (hereinafter Risan) US 2005/0060542 and in view of Lyle US 7,131,004.

3. As per claims 1 and 43:

NGSCB teaches a method comprising: establishing a secure communication channel between an application and a component downstream from the application; (pages 6-7, Security Support Component; pages 8-9, Secure Video Hardware; encrypted path must be established to prevent other devices from snooping secrets...encrypts the video data before sending it to the graphics adaptor, which can then decrypt the video data before displaying it in a secure window) and

enabling the application to instruct the downstream component, using the secure communication channel, to enable to protect content that is provided over a physically connector to an output device. (pages 6-7, Security Support Component; pages 8-9, Secure Video Hardware; the graphics adaptor decrypt the video data before displaying it in a secure window)

NGSCB does not explicitly disclose a media playback application and instructing the downstream component to enable one or more of a number of different types of content protection technologies to protect media content; and ascertaining whether the one or more content protection technologies are supported by hardware for the particular physical connector. Risan in analogous art, however, discloses that a media playback application and instructing the downstream component to enable one or more

of a number of different types of content protection technologies to protect media content; and ascertaining whether the one or more content protection technologies are supported by hardware for the particular physical connector. (page 7, pp.72, page 8, pp.77, 80-81, page 9, pp.84-85) Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the system disclosed by NGSCB with Risan in order to prevent recording applications that are adapted to establish a connection with a kernel level driver operable within an operating system to capture and redirect a media file to create an unauthorized reproduction of the media file. (page 1, pp. 10; Risan)

Both references do not explicitly disclose requesting status information from the down stream component and ascertaining, based at least in part on the status request, whether the one or more content protection technologies are supported by the hardware for the particular physical connector. Lyle in analogous art, however, further discloses requesting status information from the down stream component and ascertaining, based at least in part on the status request, whether the one or more content protection technologies are supported by the hardware for the particular physical connector. (col. 12, lines 40-54; col. 15, lines 42-65; col. 24, lines 1-33) Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the system disclosed by NGSCB and Risan with Lyle in order to reduce or eliminate the potential for an attacker to re-route the video stream away from the intended target. (col. 24, lines 27-29; Lyle)

As per claims 2 and 45-46:

The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. In addition, Risan further teaches enabling the media playback application to instruct the downstream component, using the secure communication channel as to how to apply one or more of the different types of content protection technologies. (page 7, pp.72, page 8, pp.77, 80-81, page 9, pp.84-85)

As per claims 3 and 44:

The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. In addition, NGSCB further teaches wherein the downstream component comprises a software component. (page 6, Security Support Component; pages 8-9, Secure Video Hardware)

As per claim 5:

The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. In addition, Lyle further teaches receiving status information from the downstream component using the secure communication channel. (col. 24, lines 1-33)

As per claim 6:

The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. In addition, Lyle further teaches receiving status information from the downstream component using the secure communication channel, wherein the status information pertains to instructions that were previously sent by the media playback application. (col. 24, lines 1-33)

As per claim 47:

The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. In addition, NGSCB further wherein the output device is either a video display or audio speakers. (pages 8-9, Secure Video Hardware)

4. Claims 7, 49 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Hardware Platform for Next-Generation Secure Computing Base" December 2001 (hereinafter NGSCB) in view of in view of Risan et al. (hereinafter Risan) US 2005/0060542 and in view of Lyle US 7,131,004 and further in view of Peinado WO 01/52020.

As per claim 7:

The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. None of the references explicitly disclose wherein the status information pertains to instructions that were previously sent by the media playback application. Peinado in analogous art, however, further discloses wherein the status information pertains to instructions that were previously sent by the media playback application. (page 68, line 7- page 69, line 25) Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the system disclosed by NGSCB, Risan and Lyle with in order to verify the rendering application and/or each module in the path is a type of secure enough approved for use by the digital license, thereby ensuring the modules are trusted to handle decrypted digital content. (page 68, lines 8-13; Peinado)

As per claims 49 and 51:



The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. None of the references explicitly disclose choosing, based at least in part on the ascertaining, to not play the media content if the one or more content protection technologies are not wholly supported by hardware for the particular connection. Peinado in analogous art, however, further discloses choosing, based at least in part on the ascertaining, to not play the media content if the one or more content protection technologies are not wholly supported by hardware for the particular connection. (page 68, line 7- page 69, line 25) Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the system disclosed by NGSCB, Risan and Lyle with in order to verify the rendering application and/or each module in the path is a type of secure enough approved for use by the digital license, thereby ensuring the modules are trusted to handle decrypted digital content. (page 68, lines 8-13; Peinado)

5. Claims 48 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over "Hardware Platform for Next-Generation Secure Computing Base" December 2001 (hereinafter NGSCB) in view of in view of Risan et al. (hereinafter Risan) US 2005/0060542 and in view of Lyle US 7,131,004 and further in view of Lee et al. (hereinafter Lee) US 7,233,666.

As per claims 48 and 50:

The combination of NGSCB, Risan and Lyle teaches all the subject matter as discussed above. None of the references explicitly disclose choosing, based at least in

part on the ascertaining, to play a limited version of the media content if the one or more content protection technologies are not wholly supported by hardware for the particular connection. Lee in analogous art, however, further discloses choosing, based at least in part on the ascertaining, to play a limited version of the media content if the one or more content protection technologies are not wholly supported by hardware for the particular connection. (col. 4, lines 36-col. 5, line 3) Therefore it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the system disclosed by NGSCB, Risan and Lyle with Lee in order implement a high bandwidth digital content protection. (col. 4, lines 38-40; Lee)

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHEWAYE GELAGAY whose telephone number is (571)272-4219. The examiner can normally be reached on 8:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 571-272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. G./  
Examiner, Art Unit 2437

/Emmanuel L. Moise/  
Supervisory Patent Examiner, Art Unit 2437